(2)

No. 09-84

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Brian L. Murphy — PETITIONER
(Your Name)

VS.

Brandi Bryant — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis.*

[X] Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

Court of Appeals Court
Court of Superior Court

[ ] Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Brandi Bryant
(Signature)

AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, Berenice Bravo, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	$ N/A	$ N/A	$	$
Self-employment	$ N/A	$ N/A	$	$
Income from real property (such as rental income)	$ N/A	$ N/A	$	$
Interest and dividends	$ N/A	$ N/A	$	$
Gifts	$ N/A	$ N/A	$	$
Alimony	$ N/A	$ N/A	$	$
Child Support	$ N/A	$ N/A	$	$
Retirement (such as social security, pensions, annuities, insurance)	$ N/A	$ N/A	$	$
Disability (such as social security, insurance payments)	$ N/A	$ N/A	$	$
Unemployment payments	$ N/A	$ N/A	$	$
Public-assistance (such as welfare)	$ N/A	$ N/A	$	$
Other (specify):	$ N/A	$ N/A	$	$
Total monthly income:	$ 0	$ N/A	$	$

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A			$
N/A			$
			$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A			$
N/A			$
			$

4. How much cash do you and your spouse have? $_____
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
N/A		$	$
N/A		$	$
		$	$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings. N/A

☐ Home
Value N/A

☐ Other real estate
Value N/A

☐ Motor Vehicle #1
Year, make & model _____
Value N/A

☐ Motor Vehicle #2
Year, make & model _____
Value N/A

☐ Other assets
Description _____
Value N/A

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
N/A	$	$
	$	$
	$	$

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
N/A		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home) Are real estate taxes included? ☐ Yes ☐ No Is property insurance included? ☐ Yes ☐ No	$ N/A	$ N/A
Utilities (electricity, heating fuel, water, sewer, and telephone)	$ N/A	$ N/A
Home maintenance (repairs and upkeep)	$ N/A	$ N/A
Food	$ N/A	$ N/A
Clothing	$ N/A	$ N/A
Laundry and dry-cleaning	$ N/A	$ N/A
Medical and dental expenses	$ N/A	$ N/A

	You	Your spouse
Transportation (not including motor vehicle payments)	$ N/A	$ N/A
Recreation, entertainment, newspapers, magazines, etc.	$ N/A	$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	$ N/A	$ N/A
Life	$ N/A	$ N/A
Health	$ N/A	$ N/A
Motor Vehicle	$ N/A	$ N/A
Other: _____	$ N/A	$ N/A
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	$ N/A	$ N/A
Installment payments		
Motor Vehicle	$ N/A	$ N/A
Credit card(s)	$ N/A	$ N/A
Department store(s)	$ N/A	$ N/A
Other: _____	$ N/A	$ N/A
Alimony, maintenance, and support paid to others	$ N/A	$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	$ N/A	$ N/A
Other (specify): _____	$ N/A	$ N/A
Total monthly expenses:	$ N/A	$ N/A

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid--or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July, 2009

Brenda Bryant
(Signature)

QUESTION PRESENTED

Whether the petitioner fails to present an issue, based on the trial record, worthy of consideration by this Court.

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NATURE OF THE PROCEEDINGS

Bernale Bryant was arrested on January 27, 2000 for an incident alleged by the prosecution to have occurred on April 13, 1996 and was charged in count one with murder in violation of General Statutes Section 53a-54a (a). Two immediate factors preceded his arrest. First, on January 25, 2000 an alleged witness with a long felony record, Ewan Sharp, was arrested for an unrelated robbery and while in police custody he proffered that he had information about the 1996 incident. Second, Mr. Bryant had filed a police brutality claim in December of 1999 against the same police department for a severe beating he suffered during an unrelated arrest. The prosecution at the criminal trial alleged the deceased died from a beating. The jury deliberated for three days and convicted Mr. Bryant of the lesser included offense of manslaughter in the first degree in violation of Connecticut General Statutes Section 53a-55(a)(1).

Mr. Bryant's conviction was overturned after full trial by the habeas court in which Mr. Bryant presented a multitude of exhibits and witnesses, whilst the respondent presented two exhibits, one of which was an autopsy report. On March 8, 2005, Fuger, J., granted the writ of habeas corpus which alleged ineffective assistance of counsel after four days of trial. The Connecticut Supreme Court reversed the Appellate Court thereby affirming the judgment.

LACK OF JURISDICTION

The petitioner claims this Court has jurisdiction pursuant to U.S.C. Section 1257(a) and Supreme Court Rule 10(c) to hear this case. The respondent disagrees. The Connecticut Supreme Court did not decide an important federal question in a way that conflicts with the relevant decisions of this Court. This Court lacks jurisdiction.

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STATEMENT OF CASE

A. Mr. Bryant's Probable Cause Hearing

The prosecution alleged the incident occurred at approximately 1:30 am on April 14, 1996. The Hartford Police questioned Mr. Bryant two days later. The case remained dormant for several years. The timing of his arrest is suspect. In December of 1999, Mr. Bryant filed a brutality claim against the Hartford Police Department alleging that members of the police severely beat him. 1/19/05 Habeas Trial Tr. at 95. The same police department arrested Ewan Sharp for an unrelated armed robbery on January 25, 2000. The prosecution alleged Mr. Sharp proffered a statement against Mr. Bryant on that day. Two days later, the Hartford Police arrested Mr. Bryant.

A probable cause hearing ensued. On March 30, 2000 at the hearing, the prosecution sought to illicit testimony from Ewan Sharp. The probable cause court afforded Sharp counsel, Attorney Sexton. Sharp initially refused to testify so the prosecutor reminded Sharp of his pending charges in a downstairs courtroom. 3/20/2000 Probable Cause Tr. at 71. Sexton intimated Sharp's refusal was based on his fear of self-incrimination. Id. at 72. Transactional immunity was offered which Sexton represented was not sufficient. So the prosecution in return furnished complete, absolute testimonial immunity which Sharp accepted. The prosecution requested a recess for the express purpose "to prepare" Sharp for his testimony. Id. at 79.

Sharp testified that the Hartford Police arrested him for his involvement in an unrelated armed robbery case. Id. at 80. He had amassed at least four prior felony convictions. Sergeant Stephen Grabowski, the lead detective in Mr. Bryant's case, and other members of the police interrogated him in custody and asked if he had any useful

information to help them in other cases. The police directed his attention during this intense interrogation to Mr. Bryant and a motor vehicle accident in April of 1996. Id.

On the day in question, Sharp claimed to have been on Magnolia Street waiting by a pay phone.[1] Sharp's version of events resembled a scene from The Terminator series of movies. He saw a Ford Escort racing off at a high rate of speed with Mr. Bryant holding onto it about a block away. The Escort collided with an SUV in a devastating, fiery collision. Sharp claimed he walked to the mangled Escort and got as close as three arm lengths from it. Sharp then saw Mr. Bryant walking towards the Escort. Id. at 125, 141. Sharp claimed the passenger exited the vehicle on his own volition "holding his head and looking dizzy." Id. at 85. Mr. Bryant then snatched the driver who was already "all bloody and stuff" from the impact out of the driver's side window and proceeded to punch and kick him. Id. 85, 125. The alleged assaults lasted five seconds. The assault failed to produce any visible injuries or blood to the victim as he looked the same after the alleged assault as he did before it.[2] Id. at 128. He claimed it did not rain and the road was "dry." Id. at 99.

B. Mr. Bryant's Criminal Trial

Probable cause was found and the prosecution proceeded to try Mr. Bryant by jury. The prosecution sought to call Sharp again, but notified the court of an issue not appropriate for the jury. The trial court excused the jury. Sharp stated that his refusal to testify was based on the fear of self-incrimination. The prosecution had favorable resolved his charges earlier. Attorney Sexton represented in the absence of

[1] Sharp testified he was high and under the narcotic effects of marijuana at the time of the incident. 3/30/2000 Probable Cause Tr. at 137. He "didn't remember a lot" about the incident and his pronounced daily use of illicit drugs created what he termed "blanks" in memory which "can't be filled." Id. at 146.
[2] Sharp's testimony is in total contradiction to what the petitioner presents in page 7 of its petition.

the jury that in her view "perjury would be an exception to that grant of immunity" which is a clear indication Sharp's probable cause testimony was perjured and wholly unreliable. Id. at 460. Sexton eliminated any confusion as to Sharp's motive to refuse to testify: "I have reason to believe that his testimony will differ...[a]nd for those reasons he's asserting his privilege based on the possibility of prosecution for perjury and the possibility of a prosecution for false statement [in] the second degree." Id. at 468-469. A recess was taken. Sexton represented that Sharp's earlier probable cause testimony was perjured. Sharp continued to refuse to testify despite another offer of absolute immunity and a six month sentence of contempt of court. The prosecution sought to introduce Sharp's probable cause hearing testimony. The trial court notified counsel that it would decide the issue the following day. The jury was unaware.

On the following day, Attorney Sexton reported to the trial court in the jury's absence that Sharp had not wavered. 10/18/2000 Trial Tr. at 587. Defense counsel had ample time to brief the admissibility of Sharp's prior testimony before its admission, but he did not. The prosecution read the transcript in its entirety to the jury.

The state presented Gary Fournier. Fournier testified that on April 13, 1996 he was living with his fiancée, Renee Fleury. Fleury was at work and unaware of his indiscretions. 10/18/2000 Trial Tr. 605. He and the deceased started a drug and cocaine binge at around 6:00 pm at a bar in Manchester. Around midnight, they needed more cocaine so Fournier drove Fleury's car to Albany Avenue in Hartford where he had purchased illegal drugs on at least five prior occasions. The deceased rode as the passenger. Id. at 610, 633. Fournier testified that he refused to pay so he sped off. He ran a stop sign and a "Jeep Cherokee hit [him] on the driver's door." Id. at

614. The Escort spun, hit a telephone pole, and came to rest with the driver's door lodged against the pole and both airbags imploded. Id. at 615. Fournier claimed that Mr. Bryant dragged him out of the driver's side window and kicked him repeatedly. Fournier testified that he made his way to the stoop of Blanche's, a nearby liquor store, without assistance where the passenger was then allegedly dragged through the driver's side window.[3] Id. at 678.

Sergeant Stephen Grabowski testified that he attempted to interview Fournier at the hospital. Fournier had sought medical treatment under the assumed name of "Leonard Fournier" due to various warrants out for his arrest. Id. at 621. Fournier was intoxicated and very uncooperative. 10/18/2000 Trial Tr. 707. Fournier escaped the hospital in fear of arrest. He made his way back to his financee's, Ms. Renee Fleury's, apartment.

Grabowski ran the plate and learned the Escort was registered to Fleury. Grabowski met with Fleury. She provided him with Fournier's real first name and whereabouts. Grabowski took a written statement from her. The statement indicates Fournier stated shortly after the incident that "*three Spanish guys with guns*" were involved in the incident. Appendix A-4. She directed him to her apartment. Id. at 707. Grabowski interviewed Fournier and took him into custody. The jury was never made aware of Fournier's statement about the three Spanish males with guns.

Fournier furnished a statement once in police custody on April 15, 1996. Grabowski charged Fournier with criminal impersonation and interfering with police.

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[3] This was not possible as according to police testimony the driver's door was lodged against the telephone pole. 4/7/2000 Probable Cause Tr. at 157.

The statement had two significant contradictions to his eventual trial testimony. First, in Fournier's statement, he told the Hartford Police that he was the passenger and that the deceased was the driver. Second, Fournier's statement reveals that he was purchasing drugs from a person known as "T Time," not Mr. Bryant. Fournier testified to two reasons why he lied to the police when he gave his statement: he did not hold a valid driver's license at the time of the incident and he had several outstanding warrants. Fournier likewise supplied a motive for testifying in a manner beneficial to the prosecution. He had an open criminal matter with the same prosecutor's office scheduled for five days after he testified on October 23, 2000. Id. at 663.

Fournier was asked during his testimony about his location when he supposedly saw the deceased being dragged from the car. He responded that: "he was just getting up on his hands and knees. And the car isn't a *Cadillac*. I mean it's a Ford Escort." *Emphasis* added, Id. at 689. Unfortunately, defense counsel did not pick up on what appeared to be a "Freudian slip." A slip because, as the habeas trial would bring to light, a white Cadillac or Lincoln would fit prominently into the case.

Fournier mentioned "T-Time," but not Mr. Bryant in the statement which he furnished to the police on April 15, 1996. Members of the police were familiar with "T-Time" aka Terry Davis, so Grabowski interviewed him in April of 1996. "T-Time" confirmed that Mr. Bryant was at the scene.

The prosecution presented the drug dealer referred to as "T-Time" who testified that he was at the scene selling drugs on the street.[4] His recollection of the events was

[4] The trial court suggested to defense counsel that it would be appropriate to issue a curative instruction to the jury to protect Mr. Bryant from "T-Time's" prior misconduct. Defense counsel declined. The trial

foggy; he had smoked crack cocaine throughout that day. 10/16/2000 Trial Tr. at 335. He saw the Escort approaching him. The occupants who he recognized from previous drug deals signaled to him. A fair amount of time passed as T-Time continued to speak with the driver. Id. at 313. He saw Mr. Bryant walk towards the passenger side of the car, lean against it, and engage the passenger in conversation. The car suddenly raced off with Mr. Bryant hanging onto it for a short distance. Immediately following the collision, he saw Mr. Bryant stumbling in the opposite direction of where the Escort had stopped. Id. at 315. That would be the last he saw of Mr. Bryant. He never saw Mr. Bryant assault Fournier or the deceased. "T-Time" then saw the passenger, who he identified as the deceased, lying on the ground. He saw someone assisting Fournier over to the stoop of a nearby liquor store. A crowd of at least 20 people had gathered before the ambulance arrived. Id. at 320.

The prosecution presented limited testimony from Jimmy Green who on the day of the incident was working as a security guard for Metro Loss Prevention. He and fellow security guard Gloria Brown were on duty at an apartment complex at the corner of Vine and Albany Avenues when they heard a bang.[5] 10/16/2000 Trial Tr. at 292-293. Then, he heard a second, louder and different sounding bang. Id. Fifteen to twenty seconds later, he receives a call over the company radio. Id. at 293.

Mr. Green further testified that his field supervisor, Thomas Davis, had placed the call moments after the collision and it took a matter of seconds to cover the short

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court in the absence of the jury voiced a disagreement with counsel's "trial methods" and their prejudice on Mr. Bryant. 10/16/2000 Trial Tr. at 359.

[5] A proper investigation by defense counsel would have revealed that the source of the first "bang" was gunfire from a .22 caliber handgun and the source of the second was the collision of vehicles. Green's supervisor, Thomas Davis, would later confirm this at the habeas trial. 1/19/2005 Habeas Trial Tr. at 14.

distance. Id. at 285. Green immediately made his way to the Escort. He saw a man, presumably the deceased, lying on the ground and a second man, Fournier, staggering out of the vehicle. Green and Brown assisted Fournier to the stoop of Blanche's Liquor Store. Id. at 288. Mr. Green did not see Mr. Bryant at the scene. Id. at 295-296.

The first officer to respond from the was Officer Garth Perri. He was dispatched to respond to a motor vehicle accident. The ambulance was present upon his arrival and two medical professionals, John Gartley and Melissa Young-Duncan, were treating the deceased. 10/16/2000 Trial Tr. at 242-243. Perri saw Fournier sitting on a stoop of the liquor store. The road was wet as it had rained heavily. Id. at 270.

Detective Knight testified that he arrived on the scene afterwards. The lead detective, Sergeant Stephen Grabowski, ordered him to "muster up" some witnesses. 10/18/2000 Trial Tr. at 701. Knight spoke with Thomas Davis. Mr. Davis was the driver of the other vehicle involved in the collision. Mr. Davis was on duty as a supervisor for Metro Loss Prevention driving a company SUV. Detective Knight took a statement from Mr. Davis. Appendix A-9. In addition, Knight took statements from Jimmy Green and Gloria Brown.[6] 10/17/2000 Trial Tr. at 410, Appendix A-11 and A-13.

Detective Knight testified that he had information to believe that Mr. Bryant had witnessed the car accident. Knight and Grabowski stopped by the residence of

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[6] Defense counsel admitted to having in his possession the statements of Thomas Davis, Rene Fleury, Green, and Brown prior to the start of the criminal trial. He also admitted that Green and Brown's statements directly impeach the testimony of Fournier and Sharp. 1/7/2005 Habeas Trial Tr. at 43-45, 56. According to Ms. Brown, she observed that one of the occupants of the Escort had "exited that vehicle and was lying on the ground." Then Mr. Green went to the other occupant, presumably Fournier, and assisted him out of the vehicle. Likewise, according to Mr. Green's written statement, he observed that the one male who had exited the vehicle was lying on the ground, while the second occupant, presumably Fournier, attempted to "stagger" out of the vehicle. Defense counsel failed to present Ms. Brown and failed to illicit testimony from Mr. Green to this effect during his lax cross-examination.

Janice Bryant, Mr. Bryant's mother on the afternoon of April 15, 1996. She had the day off from work and was performing regular house chores. 10/16/2000 Trial Tr. at 355. They did not have a warrant, but she let them in. Knight gained her trust because he knew Mrs. Bryant for at least fourteen years and Knight had helped her son get on the police basketball team. Id. at 351-352. Knight told her the police were investigating an early morning motor vehicle accident which her son may have witnessed.

The prosecution presented Mrs. Bryant. She testified that her son arrived home after the incident. His clothes did not contain any blood. 10/17/2000 Trial Tr. at 343. She customarily did his laundry so she washed the jeans he had worn. His shirt and sneakers remained unwashed. Id. at 348, 354. She did not see any blood on his clothes just some soil. She knew that her son had not washed those items because the washing machine was next to her bedroom and she did not hear the washer. Id. at 356. Knight had made Mrs. Bryant promise to call when her son was available which she promptly did. Knight testified that two days later he met with Mr. Bryant, collected the clothes Mr. Bryant wore at the time of the alleged incident, and brought him to the police station. 10/16/2000 Trial Tr. at 390. Mr. Bryant was very cooperative.[7]

Detective Knight testified to the oral statements which Mr. Bryant had made about the incident. Mr. Bryant purportedly said he was at a nearby Mobile station where he worked when he saw the Escort stop for some time. He approached the

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[7] Detective Knight had questioned Thomas Davis at length at the scene. Davis specifically told Knight that he had heard gunshots prior to the collision, that he observed a white Cadillac or Lincoln in pursuit of the Escort, that a "light skinned Hispanic" male exited the white vehicle holding what appeared to be a handgun, and that the light skinned Hispanic male moved to the direction of the Escort. 1/19/2005 Habeas Trial Tr. at 16-19. Detective Knight, however, refused to memorialize these findings into Mr. Davis' statement. Detective Knight duplicitously did not share any of the observations of Mr. Davis with Mr. Bryant. The jury remained unaware as well due to defense counsel's omissions.

vehicle and one of the occupants asked if he had any Readys, slang for crack cocaine. He did not have any, but a packet of white powder was exchanged. The driver sped off with Mr. Bryant holding on to the car. Id. at 388. Prior to the vehicle entering the intersection, he let go, tumbled, and injured his knee. By the time he got up, the collision had occurred as the Escort was at rest and the occupants of the Escort had already exited. One of the occupants was bleeding profusely. Mr. Bryant proceeded to the opposite direction to his mother's house on Garden Street. Id. 388. Knight did not memorialize these oral statements into writing.

The prosecution presented evidence that Mr. Bryant's clothes were tested by the state forensic lab. The sneakers which the prosecution alleged were used in the assault appeared unwashed.[8] Lead criminalist Kiti Settachatgul conducted the tests and she testified that neither contained any blood from either Fournier or the deceased. 10/19/2000 Trial Tr. at 879. Normal washing would not eliminate the presence of blood.

Arcady Katsnelson, the medical examiner who performed the autopsy, testified before Fournier did. 10/17/2000 Trial Tr. at 515. The Hartford Police provided him information that the deceased had been beat up and died as a result. He was not provided with any statements to suggest the deceased had been shot. Katsnelson was also provided with information suggesting that the deceased had been the driver. Katsnelson's physical examination of the deceased and subsequent opinion were premised on the deceased having had been the *driver, not* the *passenger*. Id. at 562-64.

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[8] Contrary to the petitioner's misrepresentation, there is no DNA evidence connecting the respondent to a homicide. His DNA was not found anywhere at the scene. Neither Fournier's nor the deceased's DNA was found on him. The petitioner mentions that an impression of a boot print was found on the deceased in support of its claim that the respondent beat the deceased. Mr. Bryant, however, wore sneakers.

The thrust of Katsnelson's testimony was to compare the injuries the deceased suffered with those a hypothetical driver would have been expected to suffer if the injuries were caused by the motor vehicle collision. Id. The passenger and driver would be expected to have two different patterns of broken ribs due to the difference in their positions within the vehicle and in the positions of each seat belt. The broken rib pattern of the deceased actually matched what would be expected if he had been the passenger. He concluded that since the deceased's broken rib pattern did not match those of the hypothetical driver's, the deceased's broken ribs were caused by an assault, not from a motor vehicle collision. Along those lines, he testified that the contusions to the right side of the deceased's face were indicative of an assault since the hypothetical driver in the collision would be expected to have similar contusions on the left side.

Katsnelson testified the cause of death was blunt trauma, but could not render an opinion to the specific instrument used if any and could not exclude if it were a gun, a tire iron, stick, etc. Id. at 558. He did not find evidence of gravel, sand, or dirt which one would expect to find if the deceased were assaulted in the manner presented by the state.[9] Katsnelson was never made aware that Fournier had lied to police when he told them the deceased drove the Escort. His testimony was premised on that lie.[10]

The prosecution presented Sergeant Grabowski who arrived on the scene at least two hours after the incident had occurred. The Escort had come to rest jammed

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[9] This is contradictory to the weather and roadway conditions on the day in question. It rained and the roadway was wet according to the Officer Perri. 10/16/2000 Trial Tr. at 270.

[10] The prosecution's order of witnesses was quite suspect and prejudicial to Mr. Bryant. The thrust of Katsnelson's cross-examination was that the deceased was the driver, so the line of cross-examination was limited. Only after he testified did the prosecution call Gary Fournier to testify. Only then was it established that the deceased was likely the passenger. Defense counsel did not investigate these circumstances properly and did not present them to the jury.

against a telephone pole with its driver's airbag deployed. He saw blood-like matter on the sidewalk feet from the front of the vehicle and on the front license plate. The scene the scene was well illuminated and well lit. 10/18/2000 Trial Tr. at 771.

Grabowski interviewed Fournier on several occasions. He found him to be uncooperative. Grabowski waited until February 20, 1997 to show Fournier a photo array. Id. at 731. The array contained eight pictures. Seven were presented to Fournier with black lettering. Only one, Mr. Bryant's, was presented with red lettering, heightening the suggestibility that Fournier would pick that photo. Id. 735. Identification was made despite the fact that on two prior occasions Fournier had stated that his lack of recollection would prevent him from making such identification.

Grabowski testified that he interrogated Mr. Bryant on November 17, 1997 seven months after Fournier's alleged identification. Mr. Bryant furnished a written statement. The statement was read to the jury by Grabowski. It indicates Mr. Bryant held onto the Escort for five seconds before the collision. One to two minutes elapsed before Mr. Bryant was able to gather himself after he fell from the Escort at great speed. By that time, the Escort had come to rest and one occupant was laying on the ground unconscious while the other occupant was sitting by the liquor store. Id. at 762.

It appears that after Mr. Bryant furnished his statement in November of 1997, the criminal investigation lay dormant until January 25, 2000 when Ewan Sharp was arrested for unrelated charges. Grabowski testified that he "debriefed" Sharp while Sharp was in custody at the Hartford Police Department. 10/19/2000 Trial Tr. at 803. The prosecution's presentation of evidence concluded with the prosecutor reading of Ewan Sharp's probable cause testimony to the jury in its entirety.

Defense counsel presented two witnesses for the defense. Sergeant Gordon Jones testified that there was a police substation equipped with outdoor cameras three blocks from where the incident occurred. 10/19/2000 Trial. Tr. at 1028. No requests were ever made to view the cameras or what the cameras recorded. Defense counsel then presented Mr. Bryant to testify. Defense counsel had decided Mr. Bryant should testify without consulting with or preparing him. Mr. Bryant testified that he worked until midnight at a Mobile station. He went home and returned back to the area about an hour later. He saw the Escort stop and "T-Time" approach the driver. He saw "T-Time" transact drugs with the driver. Some time passed. Mr. Bryant approached the driver's side of the vehicle and leaned against it. Id. at 1038. The driver suddenly pulled off. Mr. Bryant slid off and rolled across the street which was slick from the rain. It took time to gather himself. He did not witness the collision and did not witness what happened to the occupants other than one was already on the ground bleeding profusely by this time. Thomas Davis was still in the company SUV. Id. 1041.

Defense counsel rested following Mr. Bryant's testimony. Closing arguments ensued. The trial court charged the jury. The jury deliberated for three days. Mr. Bryant had been moved from Cheshire Correctional Institution to Hartford County Correctional Center. During jury deliberation, Ewan Sharp, who was also incarcerated there, slipped Mr. Bryant a handwritten note. Appendix A-15. The note is an admission by Sharp that he had fabricated his probable cause testimony and that he had assisted the state to "frame" Mr. Bryant. Mr. Bryant forwarded the note to defense counsel. Defense counsel promised to investigate the note, but did not. 1/7/2005 Habeas Trial Tr. at 90. The jury was never made aware of it.

On October 27, 2000, the jury rendered its verdict. Mr. Bryant was convicted of the lesser included offense of manslaughter in the first degree. On January 11, 2001, the trial court sentenced Mr. Bryant to nineteen years.

C. Mr. Bryant's Habeas Trial

The far fetched scenario posed by Sharp and Fournier was completely discredited by the evidence presented at the habeas trial. Defense counsel failed to present available evidence to the jury which would have led to reasonable doubt. Four eyewitnesses testified at the habeas trial that should have testified at the criminal proceeding but did not: Ms. Rene Fleury, Mr. Thomas Davis, Ms. Melissa Young-Duncan, and Mr. John Gartley. In addition, defense counsel should have presented testimony from two other available witnesses: Gloria Brown and Jimmy Green. Expert testimony presented at the habeas trial supported these claims of ineffectiveness.

Rene Fleury was engaged to Fournier. Hours after the collision in April of 1996, Fournier escaped from the hospital and fled to her apartment. She testified that she asked him what had happened. He mumbled to her that there had been an incident "with three Hispanic males and a gun." Mr. Bryant is a dark skinned black man of African-American descent.

Defense counsel never contacted her prior to the criminal trial. Ms. Fleury worked as an assistant with a civil law firm and the respondent did not impeach her credibility at the habeas trial. She furnished her statement to the Hartford Police Department the same day Fournier made the excited utterance and admission to her. Defense counsel admitted that he did nothing to investigate Ms. Fleury or the possibility of another party's involvement. 1/7/2005 Habeas Trial Tr. at 61.

Ms. Rene Fleury's available testimony at the criminal trial would have tied in with the available testimony of Thomas Davis who was the occupant of the other vehicle at the time of the collision. Davis was a veteran of the United States Marine Corps where he served as a gunnery and ammunition specialist. 1/19/2005 Habeas Trial Tr. at 14. His training with regards to guns was "very extensive." Id. at 21.

At the night in question, he was employed as an armed security supervisor for Metro Loss Prevention Services. He was driving a company SUV. As he approached the intersection, he heard the sound of a small caliber weapon with the distinct familiar pop of a .22 caliber handgun being fired. Id. at 16. Immediately thereafter, he saw the vehicle containing the deceased and Fournier, a blue Ford Escort, traveling the wrong way on a one way street and approaching his vehicle at a rate of speed of between thirty-five and forty miles an hour. Id. at 16-17. The driver of the Escort was slumped over the wheel. Davis testified in hot pursuit of the Escort was a white Cadillac or Lincoln traveling in the same direction as the Escort. Id. at 18. The Escort collided with the SUV at high speed. He observed the white Cadillac or Lincoln stop and he saw a light skinned Hispanic man wielding what appeared to be a small caliber handgun. Id. at 19. The light skinned Hispanic male exited from the rear passenger side of the white car, presumably the third occupant of the vehicle.

The light skinned Hispanic male approached Mr. Davis. Davis was able to "get a good look at him." Id. at 20. Davis drew his security issued firearm. At that point, the light skinned Hispanic male looked at him, turned around, and went up to the corner in the direction of the Escort. The light skinned Hispanic male *ran towards the Escort and its occupants*. Id. at 54. Davis maintained a clear line of vision at all times

towards the Escort and at no time did he see anyone drag, hit, or kick either occupant of the Escort. Id. at 22-23, 27.

The Hartford Police Department questioned Mr. Davis on scene. He relayed these observations to Detective Knight. But Knight both refused to memorialize those items into the statement and dissuaded Mr. Davis from discussing those facts any further. Id. at 30. Knight badgered Davis. Knight instructed Davis to limit his observations to the motor vehicle collision only. Knight expressed to Davis that he did not want Davis to memorialize the exculpatory information into his written statement.[11] The investigating officers would later tell Mr. Davis that a tire iron was found on Irving Street with part of the deceased's head attached to it.[12] Id. at 35.

Mr. Davis was contacted by the prosecutor's office prior to the criminal trial. Id. at 34. He conveyed all of the above mentioned information again. According to defense counsel, the prosecution never disclosed this information whose nature was exculpatory and should have been disclosed under Brady vs. Maryland. 373 U.S. 83 (1963). Defense counsel testified that he relied on representations made by the prosecutor's office to the effect that Mr. Davis could not be located. 1/19/2005 Habeas Trial Tr. at 131. He, therefore, did not locate and did not investigate Mr. Davis.

Moments after the high speed collision, Mr. Davis radioed from a communication device in the SUV for assistance. Jimmy Green and Gloria Brown were employed as security personnel under his supervision on the night of April 14, 1996 at a nearby

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[11] Knight testified at Mr. Bryant's criminal trial that he took a statement from Mr. Bryant a few days after the incident. Defense counsel failed to impeach Knight on why Knight did not share any of the information which Mr. Davis had provided him with Mr. Bryant. Defense counsel failed to impeach other members of the Hartford Police Department with the observations of Mr. Davis.

[12] This contradicts the prosecution's theory which it presented through Sharp and Fournier. Neither Sharp nor Fournier testified that an object or instrument was used during the alleged assault.

location three hundred feet away. 1/19/2005 Habeas Trial Tr. at 44. Green testified at the criminal trial that he heard a bang. 10/16/2000 Trial Tr. at 292-293. Later, he heard a second, louder and different sounding bang. Id. Fifteen to twenty seconds later, he received a call over the company radio. Id. at 293.

Green covered the block's distance within seconds. 1/19/2005 Habeas Trial Tr. at 44. He immediately ran to Fournier who was exiting the vehicle. He assisted him toward the stoop of a liquor store. Green did not see Mr. Bryant drag the deceased out of the vehicle and did not see Mr. Bryant assault the deceased or Fournier. His testimony at the criminal trial is consistent with the pattern of gunfire which Mr. Davis testified to at the habeas trial. A proper investigation by defense counsel would have revealed that the source of the first "bang" was gunfire from a .22 caliber handgun and the second was the vehicle collision. The jury was never made aware.

Gloria Brown arrived on scene with Green. She made her way to the SUV while Green assisted the occupants of the Escort. One of the occupants had exited the vehicle and was lying on the ground bleeding profusely from the head. She remained on scene as the EMT and paramedic arrived. Both Green and Brown furnished statements to the police which defense counsel had in his possession prior to trial.

Ms. Brown's statement implies that she did not see Mr. Bryant drag the occupants out of the Escort and beat them. Appendix A-13. Her statement critically contradicts the state's version of facts presented by Fournier and Sharp. Defense counsel, however, failed to contact and investigates Ms. Brown and Mr. Green prior to trial. Defense counsel did not illicit from him available evidence beneficial to the defense. Ms. Brown never testified.

Neither did defense counsel present Fleury and Davis to the jury to establish the involvement of at least one, possibly three, light skinned Hispanic males with guns. Similarly, he never presented Melissa Young-Duncan, an EMT, and John Gartley, a paramedic, to establish that the deceased was shot by one of the light skinned Hispanic males and that the cause of death was alternative to that which the prosecution posed to the jury. Both were paired up at the night of the alleged incident in April of 1996. They were stationed at St. Francis Hospital about five blocks from the intersection of Albany Avenue and Irving Street. They responded to the scene moments after dispatch. There was not much traffic. 1/7/2005 Habeas Trial Tr. at 5, 23.

John Gartley testified that he immediately began to evaluate the deceased and he "was touching him throughout." Id. 28. Several factors led him to observe a gunshot wound to the left temple. First, the size of the entrance wound—it was "small." Id. Second, its shape was a "circular-type" of hole about the "roundness of a pencil" consistent with a .22 caliber weapon. Id. Third, the area of the left temple directly around the entrance gunshot wound had "black residue" which was consistent with gun powder. Id. 28-29. Fourth, there was tissue protruding from back out of the hole "which was normal for a gunshot wound of that type." Id. at 28. Fifth, after he examined the scalp, he found a second wound "consistent with an exit wound." Id. 28.

The existence of an exit wound could explain why the medical examiner's report failed to mention a gunshot wound if the bullet exited the deceased's body. Gartley's forensic training by the police department to identify gunshot wounds was extensive. In addition, he had responded to "easily over a thousand" motor vehicle accidents and "anywhere between a hundred and two hundred" gunshot wound cases in his twenty

three years of experience. Id at 27.

Melissa Young-Duncan's experience was also impressive.[13] She had responded to over a thousand motor vehicle accidents and to over fifty gunshot shootings. 1/7/2005 Habeas Trial Tr. at 8. In addition, she had undergone monthly extensive forensic and police training which specifically included how to identify gunshot wounds. Young-Duncan first responded to the Escort. The driver's door could not be opened because it was blocked by a telephone pole. Id. at 7. She examined the deceased for at least twenty minutes to determine the nature of his injury. Id. at 20. The area was well lit. A gunshot wound was clearly evident to the deceased's left temple. There was the familiar black residue of gun powder "perfectly around the entrance shot." Id. 9-10. The shape of the wound was a "perfect" fit of a small caliber bullet and the size of the entrance wound was "a perfectly round hole." Id. Young-Duncan testified that several detectives and sergeants from the Hartford Police Department questioned her. She and Gartley furnished written statements to the police which defense counsel had in his possession prior to trial reflect the deceased had a gunshot wound to the left temple area. Appendix A-6, A-7.

After she furnished her statement, she transported the deceased to St. Francis Hospital where she remained for some time. She reported and showed the gunshot wound to several members of the police including to Sergeant Leftwich who said: "Yeah, that does look like to be a gunshot wound." Id. at 12. The prosecution did not disclose this information, whose nature was exculpatory under Brady, to the defense.

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[13] The petitioner misrepresents Gartley's and Young-Duncan's training. Both had considerable experience, education, and training in the area gunshot wound identification.

REASONS FOR DENYING WRIT

The petitioner advances flawed arguments. It argues that the Connecticut Supreme Court's decision conflicts with Strickland v. Washington, 466 U.S. 668 (1984) on the issue of "deference" to defense counsel's performance. The petitioner plucks three cases decided in 1997, 2000, and 2008 from other states to advance an argument that the time is ripe for this Court to re-examine Strickland and impose a draconian standard whereby every error and omission made by defense counsel should be protected under the guise of "deference." The petitioner's arguments have no merit. The Connecticut Supreme Court's decision does not conflict with Strickland and holdings of this Court, but is entirely consistent with them. The petitioner has not advanced any support to bolster its unfounded claim that the necessity exists for this Court to re-examine Strickland and adopt the standard proposed by the petitioner.

The Connecticut Supreme Court's decision in Mr. Bryant's matter is well aligned with the United States Constitution, decisions of this Court, and federal case law. The Sixth Amendment to the United States Constitution provides in relevant part: "In all criminal prosecutions, the accused shall enjoy the right...to be confronted with witnesses against him...and to have assistance of counsel for his defense." The Sixth Amendment rights of confrontation and right to counsel are made applicable to the states through the due process of the Fourteenth Amendment. Pointer v. Texas, 380 U.S. 400, 403 (1965) and Gideon v. Wainwright, 372 U.S. 335 (1963).

The right to counsel is the right to effective assistance of counsel. McMann v. Richardson, 397 U.S. 759, 771 (1970). The assessment of whether or not counsel was effective is two prong. Strickland v. Washington, 466 U.S. 668, 687 (1984). First, the

habeas petitioner must show that counsel's performance was deficient. Id. "This requires a showing that counsel was not functioning as the 'counsel' guaranteed to the defendant by the Sixth Amendment." Id. Second, the habeas petitioner must show that counsel's errors were so serious as to deprive the petitioner of a fair trial, "a trial whose result is reliable." Id.

The habeas petitioner must show that counsel's representation fell below an objective standard of reasonableness. The proper measure of attorney performance "remains simply reasonableness under the prevailing professional norms." Id. at 688. The burden of proof a petitioner has with regards to the performance prong is preponderance of the evidence. Id. 694; see Johnson v. Zerbst, 304 U.S. 458, 469 (1938). The burden as it regards to the prejudice prong is lower and he need "only demonstrate a reasonable probability that he was incompetent, sufficient to undermine confidence in the outcome....[t]his is a lower burden than preponderance of the evidence." Bouchillon v. Collins, 907 F.2d 589, 595 (5th Cir. 1990).

"Habeas corpus is the ultimate inquiry into the fundamental fairness of a criminal proceeding." Summerville v. Warden, 229 Conn. 397, 421 (1994). It is designed "to remedy fundamental miscarriages of justices." Id. at 422. Historically, the "writ's function has been to provide a prompt and efficious remedy for whatever society deems to be intolerable restraints." Fay v. Noia, 372 U.S. 391, 401-402 (1963); Harris v. Nelson, 394 U.S. 286, 291 (1969). Its function is also flexible. It is "not now and never been a static, narrow, formalistic remedy; its scope has grown to achieve its grand purpose—the protection of individuals against erosion of their right to be free from wrongful restraints upon their liberty." Jones v. Cunningham, 371 U.S. 236,243 (1963).

In Dunkley v. Commissioner of Correction, 222 Conn. 444 (1992), the Connecticut Supreme Court reviewed the basic principles that now govern habeas corpus petitions:

> "The principal purpose of the writ of habeas corpus is to serve as a bulwark against convictions that violate 'fundamental fairness'....To mount a successful collateral attack on his conviction, a prisoner must demonstrate a miscarriage of justice or other prejudice and not merely an error which might entitle him to relief on appeal....In order to demonstrate such a fundamental unfairness or miscarriage of justice, the petitioner should be required to show that he is burdened by an unreliable conviction."

Id., 460-61; Summerville v. Warden, supra, 419 (quoting same); see Gaines v. Manson, 194 Conn. 510, 516 (1984) ("the writ of habeas corpus 'holds an honored position in our jurisprudence...[as] a bulwark against convictions that violate fundamental fairness.'"); Safford v. Warden, 223 Conn. 180, 190 (1992) (same); Lozada v. Warden, 223 Conn. 834, 840 (1992) (the writ of habeas corpus can even remedy statutory violations that implicate "fundamental fairness"). In the present matter, Mr. Bryant has sought, through his writ of habeas corpus, to remedy an "extreme malfunction" that occurred in our criminal justice system. Jackson v. Virginia, 443 U.S. 307, 332 (1979) (Stevens, J., concurring in the judgment); Brecht v. Abrahamson, 507 U.S. 619, 634 (1993).

I. THE FACTUAL SCENARIO PRESENTED BY THE PETITIONER ACTUALLY SUPPORTS THE REASONABLENESS OF THE FINDING OF INEFFECTIVE ASSISTANCE OF COUNSEL UNDER *STRICKLAND*. THIS FACTUAL SCENARIO REVEALS THAT THE QUALITY OF THE EVIDENCE PRESENTED BY THE PROSECUTION TO CONVICT THE RESPONDENT WAS WEAK AND EASILY IMPEACHABLE.

The petitioner's writ is essentially based on its factual interpretation of the evidence presented by the prosecution at the criminal proceeding, not the scant evidence it presented at the habeas proceeding. The petitioner's argument is strictly

fact based and at its core is built on what it posits this Court should believe are facts. The petitioner avoids a meaningful legal analysis to bolster its unfounded claim that the Connecticut Supreme Court failed to afford proper deference to defense counsel's failures. If the factual scenario asserted by petitioner fails, then so must its argument.

A. The Fact Based Argument Presented by the Petitioner Is Flawed

The petitioner acknowledges on page 4 of its writ that Mr. Bryant's conviction hinged on the probable cause testimony of Ewan Sharp and the trial testimony of Gary Fournier. Upon closer examination, the evidence the petitioner espouses to support the respondent's conviction is fundamentally flawed. This Court should therefore not be swayed by the petitioner's unfounded claims.

Sharp refused to testify when the prosecution later called him as a witness during the jury trial. He and his attorney intimated that his probable cause testimony was perjured. 10/17/2000 Trial Tr. at 459. He refused to testify despite an offer of absolute immunity and a six month sentence of contempt of court.[14] The transcript of Sharp's probable cause testimony was read by a prosecutor to the jury in its entirety. In it, Sharp claimed that the deceased and someone else, Fournier, were the occupants of an Escort when a drug transaction occurred. The driver sped off while Mr. Bryant held onto the car. The Escort was involved in a high speed collision with a heavy SUV. Sharp claimed that Mr. Bryant, in a period of "five seconds," snatched the driver who

[14] The petitioner fails to mention several material facts which the jury remained unaware of due to defense counsel's omissions which go to the heart of the quality of Sharp's testimony. Sharp admitted in the absence of the jury that his probable cause testimony implicating the respondent was perjured. He confirmed the detritus nature of this testimony through a letter of recantation which defense counsel refused to investigate. The prosecution furnished Sharp with a benefit to testify in a beneficial manner at the probable cause hearing. Sharp had amassed a conviction record of at least four felonies by the time of his arrest of armed robbery in 1999, yet the prosecution furnished him with the very favorable disposition of lowering his armed robbery charges to misdemeanor larceny with a period of no jail time.

was the deceased. Sharp testified the passenger, Gary Fournier, exited on his own volition and was never assaulted. His testimony was based on information which the Hartford police provided to him four years after the incident to the effect that the deceased was the driver. It is not a coincidence then that Sharp's testimony matched with the information Fournier had provided the Hartford police up to that point.

Fournier testified that he was living with his fiancé, Rene Fleury, who was at work an unaware of his indiscretions. 10/18/2000 Trial T. at 605. On April 13, 1996, he and the deceased were in the midst of a cocaine binge when, around midnight, they needed more cocaine. Fournier testified that he drove Fleury's car to Albany Avenue in Hartford where he had bought drugs before. The deceased rode as the passenger contrary to the information which Fournier had provided to the police on numerous prior occasions.[15] He recognized a dealer he knew as "T-Time" and initiated a drug transaction. Fournier refused to pay so he sped off, ran a stop sign, and then a "Jeep Cherokee hit [him] on the driver's door." Id. at 653-655. The Escort spun, then hit a telephone pole and came to rest with the driver's door lodged against the pole.

After the collision, Fournier claimed that respondent ran towards the Escort and dragged him out of the car from the driver's side where the respondent proceeded to beat him. Fournier then turned his back to the deceased and stumbled unassisted a distance of thirty feet to the stoop of a liquor store where he sat down. Id. at 618, 676.

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[15] Fournier originally told the police that he and the deceased were not assaulted. Up until the time of trial, Fournier maintained that the deceased was the driver and that he was the passenger. Fournier acknowledged to lying to the police and to lying during his trial testimony on numerous occasions. Id. at 647, 648, 649, 650, 653, 655, 656, 657, 659, 664, 665. The petitioner builds its argument on the veracity and credibility of Fournier. On page 15 of its petition it wants the Court to disbelieve and disregard the statement which Fournier made to his fiancé, Rene Fleury, about "three Spanish guys with a gun." The police had not yet contacted Ms. Fleury. The circumstances surrounding this last statement render it reliable. It is the only statement he uttered with nothing to gain.

> "Fournier testified that after kicking him for about fifteen seconds, the respondent went back to the car and dragged Jones out. From that location, Fournier watched the respondent beat and kick Jones at the front of the car." Petitioner's petition at page 6.

While sitting on the steps, he claimed to have witnessed the petitioner run back to the Escort, lift the passenger through the passenger side window, and beat him.[16] Asked where his location was during the assault of the deceased, Fournier responded: "*I was sitting if thirty yards away on a step.*" *Emphasis* added, 10/18/2000 Trial T. at 618.

1. **The petitioner neglects the essential fact that Fournier necessarily had company on the stoop who, unlike Fournier, did not witness the respondent assault the deceased.**

Fournier must have had company while he sat on the stoop watching the assault on the deceased in order for the factual scenario presented by the respondent to fit. At least three other people accompanied Fournier on the steps: "T-Time," Jimmy Green, and Gloria Brown.[17] "T-Time" testified that he remained on scene and witnessed the collision which almost pinned the petitioner between both vehicles. "T-Time" saw Fournier stumble out of the Escort and followed him to the stoop while the passenger was "laying there face down, wasn't no motion, he wasn't moving or anything." 10/16/2000 Trial Tr. at 319. "T-Time" saw someone assisting Fournier "walking him

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[16] This was not possible, as according to police testimony and evidence, the passenger side window was rolled up and closed. 10/19/2000 Trial T. at 811, 853.

[17] The petitioner makes several material misrepresentations regarding the testimony of "T-Time." For example on pages 7-8 of its petition, the petitioner avers that T-Time left the scene for a few minutes after witnessing the vehicle collision, the implication being he could not have witnessed the assault. T-Time actually testified that he remained on scene and did not "jet" from the scene until "[a]bout ten minutes went by." 10/16/2000 Trial Tr. at 322. Furthermore, "T-Time" testified Mr. Bryant hobbled in the opposite direction of where the Ford Escort and its occupants had come to rest.

over to sit down on the steps of Blanche's liquor store]."[18] Id. at 339. At the stoop "T-Time" confronted Fournier:

> "Yeah, I went over there and before I jetted or left the scene, at the time I told him--I said, You know, why did he--you know, why did he do what he did? You know why did he try to leave--drive off or run off with whatever. You know why did he do that 'cause look what happened. He done got his friend killed or dead or hurt or whatever. So I told him that and from that point there I--then I left." Id. at 320.

Jimmy Green, a security guard, testified that upon his arrival to the scene he made his way to the Escort. He saw the deceased lying on the ground and a second man, Fournier, "staggering" "two or three feet away from the vehicle." Id. at 286-8. Green, along with his colleague Gloria Brown, assisted Fournier to the stoop.

> "A. At that point, I stopped a gentleman that was staggering. And we stopped him and had him sit down.
> Q. Again, when you say 'we', are you referring to you and Ms. Brown?
> A. Ms. Brown, yes...
> Q. Do you recall where you sat him down?
> A. We stopped him--we sat him down, me and Ms. Brown, in front of I believe it was a liquor store...we waited for the police and the paramedics to show up." Id. at 288.

Green testified he did not see Mr. Bryant at the scene and did not see anyone running from the scene. Id. at 295-296. "T-Time" did not see Mr. Bryant at that time either.

2. The time-frame of the sequence of events renders the petitioner's factual scenario implausible.

The petitioner's argument is made weaker upon close inspection of the time frame and other facts, which the petitioner does not dispute, in which the respondent allegedly assaulted the deceased in the manner proscribed. The rate of speed at which

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[18] "T-Time" confirms that Fournier "was being brought over" to "the front of Blanche's, which is a liquor store" and assisted to the stoop. Id. at 319, 339. Jimmy Green confirmed that he and Gloria Brown were the persons who assisted Fournier to the stoop.

the Escort was traveling at the time the respondent disengaged was "between thirty-five and forty-five miles an hour." 1/19/05 Habeas Trial Tr. at 19. Thomas Davis dispatched for assistance immediately after the Escort collided with the company SUV he was driving. Jimmy Green was located approximately "a hundred and fifty feet away from" the scene. Id. at 41. He arrived on scene within "forty seconds" of dispatch and someone responded to the SUV within "a minute, minute and a half" of dispatch.

Therefore, the factual scenario recited by the petitioner is preposterous. It would have been humanly impossible for the respondent to have gathered himself after sliding off the vehicle at such a high rate of speed, run to the driver's side of the Escort, snatch Fournier out from the driver's door which was lodged against a utility pole, proceed to assault Fournier, then run around the Escort, snatch the deceased out of the shut passenger window, and beat him severely enough to kill him all within the span of forty seconds. The jury was never presented with the impossibility of this time frame due to defense counsel's ineffectiveness.

The petitioner continues to assert unfounded and rejected facts to obtain further judicial review. The trial record simply does not support its arguments.

II. THE EXCULPATORY EVIDENCE WHICH DEFENSE COUNSEL FAILED TO UNEARTH AND THEN PRESENT WOULD HAVE IMPEACHED THE PROSECUTION'S CASE, WOULD HAVE ESTABLISED A SUCCESSFUL DEFENSE OF THIRD PARTY CULPABILITY, AND WOULD HAVE BOLSTERED THE RESPONSENT'S DEFENSE THAT HE DID NOT COMMIT THE OFFENSE AS CHARGED. THE PETITIONER'S FLAWED CLAIMS MUST FAIL UNDER A *STRICKLAND* ANALYSIS.

The Connecticut Supreme Court upheld that Mr. Bryant's conviction and sentence of nineteen years were defective under the Sixth Amendment of the United States Constitution and under the Constitution of Connecticut in that his defense

counsel failed to investigate, failed to present available evidence which contradicted the prosecution's case, and failed to present a viable third-party culpability defense. Defense counsel failed to present Fleury, Davis, Young-Duncan, and Gartley to the jury to establish the involvement of at least one, possibly three, light skinned Hispanic males in the incident and that Mr. Bryant was not responsible for the death.

The Connecticut Supreme Court aptly noted the jury at Mr. Bryant's criminal trial was presented with a credibility contest between the prosecution's version of events as presented by the prosecution's unsavory characters and the petitioner's version of events.[19] At the crux of this contest was the issue of reasonable doubt. The jury deliberated for three days and acquitted the petitioner of murder. The jury was saddled with doubt which the petitioner has never denied.

In circumstances that largely involve a credibility contest, "the testimony of neutral, disinterested witnesses is exceedingly important." Williams v. Washington, 59 F.3d 673, 682 (7th Cir. 1995). Defense counsel for Mr. Bryant did no investigation whatsoever. The petitioner's claim that the Connecticut Supreme Court did not show appropriate deference to defense counsel's failure to investigate is without merit. The United States Supreme Court held in Wiggins v. Smith, that in assessing the reasonableness of an attorney's investigation, a court "must consider not only the quantum of evidence already known to counsel, but whether the known evidence would

[19] Had defense counsel been diligent in his investigation and presentation of the respondent's case, he should not have made the decision to present the unprepared respondent to testify. Therefore, the petitioner's reliance on Mr. Bryant's testimony at the criminal proceeding to support its contention that the four missing witnesses should not have been presented to the jury because their testimony would have prejudiced the defense is unfounded. The petitioner's obsessive use of the respondent's criminal trial testimony which it materially misrepresents to support its position is to borrow an adjective repeatedly used by the petitioner to disparage the undersigned's position, "absurd."

lead to a reasonable attorney to investigate further." 539 U.S. 510, 527 (2003).

The petitioner's denial of the impact of their testimony upon the jury at Mr. Bryant's criminal trial is short-sighted and contrary to the findings of facts. Their testimony cast doubt on the theory presented by the prosecution that the respondent was responsible for the death. Their testimony impeaches the state's evidence by creating the likelihood that someone other than the respondent committed the offenses. "A defendant may give evidence concerning a third person's involvement with the crime as long as there is some evidence which directly connects the third party with the crime." Simeon v. Stoughton, 184 Conn. 547, 555 (1981). See State v. Giguere, 184 Conn. 400, 405 (1981); State v. Marshall, 166 Conn. 593, 601 (1974); and State v. Arroyo, 284 Conn. 597 (2007). The respondent presented overwhelming evidence at the habeas trial which established a viable, successful third party culpability defense.

Because the habeas court is in the best position to weigh the evidence, including the credibility of the witnesses presented before it, the province of the fact finding of the habeas court should not be disturbed by a reviewing court. Siano v. Warden, 31 Conn. App. 94 (1993). Contrary to what the petitioner ploys, the function of a reviewing court "is not to examine the record to see if the trier of fact could have reached a contrary conclusion." Id. at 95. What the petitioner is asking this Court to do is to reopen the factual findings which were made by the lower court and then substitute these findings with the factual assertions supplied by the petitioner.[20] The

[20] The court in Harris v. Reed, 894 F.2d 871, 877 (7th Cir. 1990), illustrates the folly of the petitioner's ploy: "The temptation to read the one-dimensional record on appeal and unwittingly take up the role of the 'Monday morning quarterback' is ever present. In the context of ineffective assistance claims, appellate judges—who are often drawn from the trial bar and who are generally expected to be

petitioner wants this Court to engage in speculation. The basis of the petitioner's ploy seems to be that the autopsy report did not mention a gunshot wound.

The petitioner's reliance on the autopsy is misguided and is based on a skewed premise that this medical examiner is infallible. The medical examiner was never made aware of the findings of Gartley, the paramedic, and Young-Duncan, the EMT. Katsnelson was told only that this was a beating case. The autopsy report does indicate that the deceased's skull was severely fractured.[21] It is reasonable that the force of the impact of the collision, coupled with a gunshot wound to the head, and emergency medical treatment at the trauma center could have masked the existence of the gunshot wound to the head by the time of the post-mortem examination. The examination was done a substantial amount of time after those events.

Defense counsel never challenged the cause of death offered by the prosecution. The excuse supplied by the petitioner for defense counsel's omission was that the medical examiner's report lacked mention of a gunshot wound.[22] Defense counsel, however, should have had several concerns about the validity of the autopsy report which should have led him to dig deeper. The opinion of the same medical examiner, Katsnelson, was found defective in another murder case. Summerville v. Warden, 29 Conn. App. 162 (1992). His report fails to mention any "defensive wounds" on the

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omnipresent in all other respects—must quell the tendency to call the plays they think should have been called."

[21] The petitioner misrepresents the deceased's injuries, Katsnelson's findings, and how he reached these findings.

[22] The petitioner disregards the credible evidence available to the habeas court which supports the fact that a gun was involved in the incident. Thomas Davis heard gunfire consistent with a .22 caliber weapon. Melissa Young-Duncan and John Gartley observed gunpowder residue, an entrance wound, and an exit wound all consistent with a .22 caliber gunshot wound. Several members of the Hartford Police observed the gunshot wound in Young-Duncan's presence including Sergeant Leftwich who said: "Yeah, that does look like to be a gunshot wound." 1/7/2005 Habeas Trial Tr. at 12. Apparently, the petitioner will only be satisfied with the proverbial so-called "smoking gun."

hands or arms of the deceased which would have been expected if the deceased were assaulted in the manner the prosecution alleged. Defense counsel had in his possession Gartley's and Young-Duncan's statements in which they clearly observe a gunshot wound. Furthermore, he was on notice through Katsnelson's probable cause testimony that Katsnelson's veered from the reasonable standard because his assessment of the deceased injuries was done without examining the Escort, without reconstructing the accident, and without visiting the scene. His normal practice was to do all three. 10/17/2000 Trial Tr. at 515.

These concerns should have alerted defense counsel to consult with an expert to dispute the medical examiner's report instead of relying on medical evidence provided by the state. Or at the least he should have investigated further. See Lindstadt v. Keane, 239 F.3d 191,205 (2nd Cir. 2001). Defense counsel decided not to consult an expert for reasons which had nothing to do with serving Mr. Bryant's interests. Therefore, the considerations that animated defense counsel's decision not to call a medical expert cannot be described as truly "strategic." Pavel v. Hollins, 261 F.3d 210, 223 (2nd Cir. 2001). Had defense counsel mounted on attack on Katsnelson's cause of death, it would have naturally called into question whether Mr. Bryant was responsible for the death of the deceased since there was no evidence presented by the state connecting him to a gun or to a blunt object. Katsnelson's testimony was already suspect because he admittedly veered from the standard of medical examiner conduct.

The Connecticut Supreme Court has fashioned the fundamental rule to guide a reviewing court's analysis of a habeas court's decision. The habeas court "is afforded broad discretion in making its factual findings, and those findings will not be disturbed

unless they are clearly erroneous." Taylor v. Commissioner, 284 Conn. 433, 448 (2007); see Copas v. Commissioner, 234 Conn. 139, 152 (1995). Historical facts constitute a recital of external events and the credibility of their narrators.

The Connecticut Supreme Court prudently found that defense counsel did not offer any reasonable, plausible explanation as to why he failed to investigate, speak with, or present these witnesses to the jury. The petitioner disturbs these finding of facts to provide an excuse for defense counsel in hindsight: trial strategy. The petitioner plucks three cases from other states to bolster its bold assertion that this Court should shield every failure, error, and omission of defense counsels throughout the nation with this guise. A defendant would never be able to overcome this hurdle.

The cloak which the petitioner proposes is contrary to law. While there is normally a presumption that counsel was effective, there must be evidence that counsel's strategy was "sound." Santiago v. Commissioner, 90 Conn. App. 420, 425 (2005). Otherwise, a defendant would have an insurmountable obstacle. A court could never find an attorney ineffective if the petitioner's interpretation of Strickland were adopted. The rights and protection afforded by the Sixth Amendment would be stripped. "Just as a reviewing court should not second guess the strategic decisions of counsel with the benefit of hindsight, it should also not construct strategic defenses which counsel does not offer." Kimmelman v. Morrison, 477 US 365, 386 (1986).

Defense counsel testified that his strategy during trial is not to present defense witnesses. Instead, defense counsel prefers to "rely solely" on his cross-examination. Defense counsel's failure to conduct an independent investigation, coupled with his inappropriately lax reliance on the prosecution, prevented him from reasonably

appreciating the evidence available to him. These omissions were not "tactical" because they were not based on a sound investigation. These dangerous follies would be endorsed and adopted throughout the nation if this Court grants writ.

The absence from the criminal trial of Thomas Davis, Fleury, Gartley and Young-Duncan contradict what defense counsel offered as his best trial tactic, namely to show that the prosecution's witnesses were "dirty" through cross-examination. 1/7/2005 Habeas Trial Tr. at 109, 130. Defense counsel admitted that a better method "to show that a witness is dirty is by asking another witness who is clean to testify in the defense's case." Id. at 132. He did not challenge Sharp's and Fournier's credibility.[23]

The United States Supreme Court has explained the relationship between an attorney's pre-trial investigation and the choices that he makes with regard to matters of trial strategy: "Strategic choices ***made after thorough investigation of law and facts relevant to plausible options*** are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations of the investigation." *Emphasis added*, Strickland, at 691. Here, defense counsel did not contact Thomas Davis, Renee Fleury, John Gartley and Melissa Young Duncan. Had he done so, he would have uncovered much exculpatory

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[23] The right to effective assistance of counsel includes post verdict matters. Valeriano v. Bronson, 209 Conn. 75 (1988); Consiglio v. Warden, 153 Conn. 673 (1966). Ewan Sharp and Mr. Bryant were housed at the same facility during jury deliberations when Sharp slipped Mr. Bryant a letter. Appendix A-15. The note is an admission by Sharp that his testimony was perjured and it hints at a vendetta by the Hartford Police to convict Mr. Bryant. Defense counsel, however, failed to investigate the contents of the note and to file a post-verdict motion for a new trial. The probability of success of such a motion is heightened by Sharp's earlier acknowledgements of perjury. "Where the prosecution employs perjured testimony...'the conviction must be set aside if there is any reasonable likelihood the false testimony could have affected the judgment of the jury.'" United States v. Agurs, 427 U.S. 97,104 (1976).

evidence.[24] Defense counsel relied on the statement of the state's attorney that Thomas Davis could not be located. 1/7/2005 Habeas Trial Tr. at 131. Mr. Davis was easily located as, at the relevant time, he was still employed with Metro Loss Prevention, had a business in his name, and had at least three vehicles registered in his name. 1/19/2005 Habeas Trial Tr. at 36. Defense counsel's failure to investigate was therefore based on "inattention, not reasoned strategic judgment." Wiggins v. Smith, 539 U.S. 510, 526 (2003).

In Code v. Montgomery, 799 F 2d. 1481 (11th Cir. 1986), the court concluded that the failure to interview more than one witness in support of the defendant's alibi witness constituted ineffective assistance of counsel. A defense attorney has a duty to do an independent analysis of the case and not to rely on the state. Simeon v. Stoughton, 184 Conn. 547 (1981), Harris v. Reed, 894 F 2d 871 (7th Cir. 1990).

This duty extends to calling witnesses which contradict the state's evidence, not merely to rely on the cross-examination of the state's witnesses. This failure is ordinarily enough to sustain a habeas claim. An attorney's failure to present available exculpatory evidence "is ordinarily deficient." Pavel v. Hollins, 261 F.3d 210, 220 (2nd Cir. 2001). The disastrous consequences and prejudice to the defendant when the defense counsel breaches these most obvious duties: "eyewitness evidence is precisely the sort of evidence" that "refutes" the state's case and leads to doubt in the minds of

[24] The petitioner did not controvert these facts at the habeas trial and avoids a meaningful discussion of their existence and gravity, but now in hindsight seeks to disturb these material facts. The petitioner's writ has numerous factual inaccuracies. For example, Thomas Davis testified he maintained a clear unobstructed view of the Escort and its occupants, and that the light skinned Hispanic male ***ran towards the Escort and its occupants***. 1/19/2005 Habeas Trial Tr. at 54. The petitioner misrepresents that Davis' view was obstructed and that the Hispanic male retreated to the white vehicle then left the scene.

jurors. Bigelow v. Williams, 367 F.3rd 562, 572 (6th Cir. 2004). Such evidence leads to reasonable doubt and to acquittal. The jury already appeared to have doubt as it deliberated for three days and acquitted Mr. Bryant of murder.

Defense counsel testified that in his mind the case hinged on the identification of Mr. Bryant and on impeaching the identifications made by Sharp and Fournier. 1/7/2005 Habeas Trail Tr. at 109, 112. The testimony of Thomas Davis and Renee Fleury unequivocally cast doubt on the identifications made by Sharp and Fournier. Mr. Davis and Ms. Fleury support the involvement of a "light skinned" Hispanic male. Mr. Bryant is a dark skinned African-American. If the jury was willing to credit the testimony of Mr. Davis and Ms. Fleury, it would have further discredited the testimony of Sharp and Fournier, augmented the impeachment of the police, and provided the jury with a viable basis for clinging to the presumption that Mr. Bryant was innocent. They were unbiased witnesses whose account largely corroborated each others'.

Defense counsel could have used the testimony of Melissa Young-Duncan and John Gartley to impeach Katsnelson and to bolster the defense. Both examined the deceased thoroughly to find an entrance and exit wound consistent with a .22 caliber handgun, both found evidence of stippling around the entrance wound, and both had extensive experience and training. The medical examiner was never made aware of the observations of Gartley and Young-Duncan because representatives of the prosecution summarily informed him this was a beating case which would explain why the examiner rendered his opinion without following proper protocol.

Defense counsel testified that he did not want to present John Gartley and Melissa Young-Duncan because he did not want to produce evidence of a firearm. He

feared the jury would have a basis to convict Mr. Bryant with manslaughter with a firearm which carried a mandatory minimum of five years as opposed to manslaughter without a firearm which carried a mandatory minimum of one year. 1/7/2005 Habeas Trial Tr. at 107. As the Connecticut Supreme Court aptly noted, defense counsel's explanation was based on hindsight and does not make sense considering the prosecution did not even allege that a firearm was ever used in the assault.

The excuses provided by the petitioner for defense counsel's omissions are disingenuous because he never interviewed any of the missing witnesses. He could not asses their importance because he did not know what evidence they could provide in support of the defense. "An attorney who fails to interview a readily available witness whose noncumulative testimony may potentially aid the defense should not be allowed to defend his omission simply by raising the shield of 'trial strategy and tactics.'" Crisp v. Duckworth, 743 F.2d 580, 584 (7th Cir. 1984); see Wiggins v. Smith, 539 US 510 (2003); United States v. DeCoster, 487 F.2d 1197,1201 (CADC 1973); Smith v. Wainwright, 741 F.2d 1248, 1254 (11th Cir. 1984); Washington v. Smith, 219 F.3d 620, 631 (7th Cir. 2000). To hold otherwise would be to render Strickland moot.

The petitioner continues to assert unfounded, rejected, and unsupported arguments to obtain further judicial review. The Sixth Amendment and the Fourteenth Amendment to the United States Constitution, the holdings of this Court, and the trial record do not support the petitioner's arguments

CONCLUSION

For all of the foregoing reasons, the petition for writ of certiorari should be denied. The petitioner's claims are without merit.

RESPECTFULLY SUBMITTED,

THE RESPONDENT

Peter Tsimbidaros
Counsel of Record
Law Office of Peter Tsimbidaros
P.O. Box 320482
Fairfield, CT 06825
(203)333-5111

Dated: July 19, 2009

No. 09-84

In the

SUPREME COURT OF THE UNITED STATES

BRIAN K. MURPHY,
Petitioner

V.

BERNALE BRYANT,
Respondent

APPENDIX

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STATUTORY PROVISIONS

General Statutes Section 53a-54a. Murder

(a) A person is guilty of murder when, with intent to cause the death of another person, he causes the death of such person or of a third person or causes a suicide by force, duress or deception; except that in any prosecution under this subsection, it shall be an affirmative defense that the defendant committed the proscribed act or acts under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be, provided nothing contained in this subsection shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime.

(b) Evidence that the defendant suffered from a mental disease, mental defect, or other mental abnormality is admissible, in a prosecution under subsection (a) of this section, on the question of whether the defendant acted with intent to cause the death of another person.

(c) Murder is punishable as a class A felony in accordance with subdivision (2) of section 53a-35a unless it is a capital felony or murder under section 53a-54d.

General Statutes Section 53a-55. Manslaughter in the first degree: Class B felony

(a) A person is guilty of manslaughter in the first degree when: (1) With intent to cause physical serious physical injury to another person, he causes the death of such person or of a third person; or (2) with intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he committed the proscribed act or acts under the influence of extreme emotional disturbance, as provided in subsection (a) of section 53a-54a, except that the fact that homicide was committed under the influence of extreme emotional disturbance constitutes a mitigating circumstance reducing murder to manslaughter in the first degree and need not be proved in any prosecution initiated under this subsection; or (3) under circumstance evincing an extreme indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person.

(b) Manslaughter in the first degree is a class B felony.

General Statutes Section 53a-55a. Manslaughter in the first degree with a firearm: Class B felony: Five years not suspendable

(a) A person is guilty of manslaughter in the first degree with a firearm when he commits manslaughter in the first degree as provided in section 53a-55, and in the commission of such offense he uses, or is armed with and threatens the use of or displays or represents by his words or conduct that he possesses a pistol, revolver, shotgun, machine gun, riffle or other firearm. No person shall be found guilty of manslaughter in the first degree and manslaughter in the first degree with a firearm upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) Manslaughter in the first degree with a firearm is a class B felony and any person found guilty under this section shall be sentenced to a term of imprisonment in accordance with subdivision (4) of section 53a-35a of which five years of the sentence imposed may not be suspended or reduced by the court.

CONSTITUTIONAL PROVISIONS

The Sixth Amendment to the United States Constitution provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The Fourteenth Amendment to the United States Constitution, Section 1 provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State

deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Article First, Section 8 of the Connecticut Constitution provides:

In all criminal prosecutions, the accused shall have a right to be heard by himself and by counsel; to be informed of the nature and cause of the accusation; to be confronted by the witness against him; to have compulsory process to obtain witnesses in his behalf; to be released on bail upon sufficient security, except in capital offenses, where the proof is evident or the presumption great; and in all prosecutions by information, to a speedy, public trial by an impartial jury. No person shall be compelled to give evidence against himself, nor be deprived of life, liberty, or property without due process of law, nor shall excessive bail be required nor excessive fines imposed. No person shall be held to answer for any crime, punishable by death or life imprisonment, unless probable cause shown at a hearing in accordance with procedures prescribed by law, except in the armed forces, or in the militia when in actual service in time of war or public danger.

HARTFORD POLICE DEPARTMENT

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER: 96-16894

VOLUNTARY STATEMENT

DATE: 4-14-96

TIME STARTED: 1101 AM X PM

TIME FINISHED: 1250 AM PM X

I, RENE FLEURY (TYPE OR PRINT NAME IN FULL), of 52 PEARL STREET, MANCHESTER CT (TYPE OR PRINT FULL ADDRESS)

was born on 11-25-75 (MO. DAY YR) in WOBURN MASSACHUSETTS (TOWN/CITY STATE COUNTRY)

I attended 12 grades of school and I (XX) can ( ) can not read and write English. I have lived at my present address for 5 (YRS. MOS.). I am giving the following statement of my own free will and accord without fear, threat or promise.

This statement was given at 50 JENNINGS RD HARTFORD CT. (NO. STREET TOWN/CITY STATE)

I AM HERE AT THE HARTFORD POLICE STATION GIVING THIS STATEMENT TO DETECTIVE GRABOWSKI ABOUT THE INCIDENT THAT HAPPENED WITH MY CAR AND MY BOYFRIEND GARY FOURNIER ON SUNDAY MORNING 4-14-96

ON SATURDAY MORNING, I LEFT FOR WORK AT AROUND 8:00 AM. GARY MY BOYFRIEND WAS AT MY HOUSE STILL IN BED. I LEFT THE KEYS TO MY CAR AT THE HOUSE, BECAUSE GARY KNEW THAT IT WAS ALRIGHT TO USE MY CAR SATURDAY. I WENT TO WORK AT DENNY'S RESTURANT IN EAST HARTFORD. I GOT TO WORK USING MY FATHERS CAR. HE HAS A PONTIAC HORIZON COLOR WHITE.
MY CAR THAT GARY WAS USING WAS 1995 FORD ESCORT COLOR TEAL GREEN BUT IT LOOKS BLUE AT NIGHT. MY LICENSE NUMBER IS 713 KBX.

I WAS AT WORK UNTIL THREE IN THE AFTERNOON. GARY WAS AT WORK TO. HE WORKS FOR BARE NISSAN ON THE SERVICE ROAD IN HARTFORD. WHEN I GOT OUT OF WORK I WENT HOM AND WENT TO SLEEP. GARY WAS NOT HOME. I GOT UP 4:17 PM, I MADE DINNER FOR MYSEL I WATCHED TV, THEN I WENT TO MY PARENTS HOUSE AT 138 COOPER STREET IN MANCHES AROUND 9 OR 9:30 AT NIGHT. I STILL HAD NOT HEARD FROM MY BOYFRIEND GARY.

WELL, GARY DID CALL ME JUST BEFORE I LEFT FOR MY PARENTS HOUSE, AND TOLD ME THA HE WILL BE HOME SHORTLY. THAT GARY WAS AT THE WASHINGTON STREET SOCIAL CLUB IN MANCHESTER. I ARRIVED AT MY HOUSE BEFORE 10:00 PM. GARY WAS NOT HOME, AND I WE TO BED.

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

Det Stephen Grabowski
WITNESSED

Det Lisa J. M. Perreault 6205
WITNESSED

Rene Fleury
SIGNATURE

Sworn and subscribed to before me this 14th day of April 19 96 in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5 (12/84) Page 1 of 2 Pages A-4 STATE'S ATTORNEY

BEST AVAILABLE COPY

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER
96-16894

(CONTINUATION) VOLUNTARY STATEMENT

DATE 4-14-96

AT 11: 20 AM DETECTIVE GRABOWSKI TOLD ME THAT HE RECIEVED WORD FROM THE MANCHESTER POLICE DEPARTMENT, THAT GARY WAS HOME AT 52 PEARL STREET. THEY ALSO TOLD ME THAT GARY HAD ACTIVE WARRANTS FROM THE EAST HARTFORD POLICE DEPARTMENT. I TRIED TO CALL MY HOUSE BUT NO ONE ANSEERED. I SIGNED A CONCENT TO SEARCh FORM IN FRONT OF HARTFORD POLICE SARGENT LILLEY, AND DETECTIVE GRABOWSKI. WE THEN LEF THE HARTFORD POLICE DEPARTMENT, TO PROCEED OVER TO MY HOUSE TO FIND GARY.

GARY WAS FOUND AT MY HOUSE WITH NO TROUBLE, AND MYSELFE AND DETECTIVE GRABOWSK AND SARGENT LILLEY RETURNED TO THE POLICE STATION TO GIVE MY STATEMENT.
I AM STARTING THIS STATEMENT WHERE I LEFT OFF ON PAGE 1.

I WOKE UP AT AROUND 5:15 OR 5:30 SUNDAY MORNING APRIL 14, 1996. I WAS NOT DUE IN WORK UNTIL 7:00 AM. AT 7:00 AM I WENT TO WORK. AT ABOUT 8:55 AM SOMEONE CAME IN THE RESTURANT, A FEMALE I HONESTLY DON'T KNOW WHO SHE WAS, SHE HAD BLONDE AHIR HAIR. SHE TOLD ME THAT GARY NEEDED TO TALK TO ME AND IT WAS IMPORTANT. I TOLD HER TO GO GET GARY SO WE CAN TALK AT THE COUNTER. SHE TOLD ME SHE COULD'T I TOLD HER IT'LL BE OUT IN A MINUTE. SHE TOLD ME GARY WAS OUTSIDE.
I WENT OUTSIDE AND SAW GARY SITTING IN A BROWN CAR, A OLDER CAR NOT A STATION WAGON. I ASKED HIM WHAT HAPPENED, HE TOLD ME HE WAS IN A CAR ACCIDENT AND WOULD EXPLAIN MORE LATER. AFTER THAT HE WENT INTO TOMS CAR, TOM HUGES WAS THE OTHER GUY AT MY HOUSE, TOM AND GARY LEFT, THEY TOLD ME THEY WERE GOING HOME.

I LEFT WORK AT AROUND 9:00 AM. I DROVE HOME. MY NEIGHBOR STEVE WHO LIVES ON THE FIRST FLOOR TOLD ME THAT THE POLICE WERE LOOKING FOR ME. I KNEW IT WAS ABOUT TH ACCIDENT. I WENT UP STAIRS TOLD GARY THAT I WAS GOING TO THE POLICE STATION, AN THAT I WOULD BE RIGHT BACK. HE TOLD ME TO THAT HE GAVE THE NAME LEONARD FOURNIER TO THE POLICE, BECAUSE HE HAD A WARRANT. SHE TOLDME IF THE POLICE ASK ABOUT THE CAR, TELL THEM I LEND IT TO LENNY FOURNIER. THEN DETECTIVE GRABOWSKI CALLED MI AT HOME. HE WAS HOME AT THE TIME. THEN I CAME INTO THE POLICE STATION TO TALI to detective grabowski.

BEFOR THE DETECTIVE CALLED GARY TOLD ME AS I WAS PUTTING HIM IN BED SOMETHING ABOUT 3 SPANISH GUYS WITH A GUN, BUT NOTHING MADE ANY SENSE TO ME. EVERY THING I TOLD DETECTIVE GRABOWSKI IS THE TRUTH.

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

WITNESSED

WITNESSED

SIGNATURE

Sworn and subscribed to before me this 14th day of April, 19 96, in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5A (10/84)

STATE'S ATTORNEY

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER 96-16894

VOLUNTARY STATEMENT

DATE 4-14-96

TIME STARTED 0350 AM ☒ PM

TIME FINISHED 0430 AM ☒ PM

I, Melissa Young (TYPE OR PRINT NAME IN FULL), of 873 West Blvd Apt 308 Hfd CT (TYPE OR PRINT FULL ADDRESS)

was born on 1 4 69 (MO DAY YR) in New Britain (TOWN/CITY) CT (STATE) USA (COUNTRY)

I attended 12 grades of school and I (X) can ( ) can not read and write English. I have lived at my present address for 2 (YRS.) - (MOS.). I am giving the following statement of my own free will and accord without fear, threat or promise.

This statement was given at SFH 114 (NO.) Woodland St (STREET) Hfd (TOWN/CITY) CT (STATE)

I am A employee of L+M Ambulance & on 4-14-96 At approx 130AM John Gaffney & myself responded to an MVA on Albany & Irving St. U.O.A found 2 CARS, one CAR facing west, the other CAR was Against telephone pole facing north on Irving St. My partner went to CAR on Albany to check injuries & I went to the CAR on Irving. I found A white male PT laying on ground on front right side in fetal position facing North on Irving. PT was surrounded by About 10 black bystanders, one black female had just moved away from him & told me she felt no pulse. I immediately went back to Ambulance to get equipment & called for Assistance from John. PT had what to appeared to be A gunshot wound At Left temple Area. We started to remove clothing & on the back of PT he had A 5 inch oblong [redacted] contusion on upper center of back & several Abrasions on lower BACK. We turned PT over & he had Severe facial trauma & Abrasions on chest & Abd. While doing this we were Also Asking bystanders if Anyone witness Accident OR if PT was taken out of CAR by them. They all denied. Officer Manning WAS 1st officer that was on scene & we told him what we had & proceeded to load PT into Ambulance. Officer Perri came into ambulance with us & As we were doing ALS procedures he Assist us by trying to find PT info & Asking us what we had. Our Supervisor Mike R. drove the Ambulance over to SFH report of injuries given to SFH ED staff.

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 1 pages.

Det Lux St Pierre 61207
WITNESSED

WITNESSED

Melissa
SIGNATURE

Sworn and subscribed to before me this 14th day of April, 1996, in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5 (12/84)

Page 1 of 1 Pages

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STATE'S ATTORNEY

HARTFORD POLICE DEPARTMENT

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER: 96-16894

VOLUNTARY STATEMENT

DATE: 04-14-96

TIME STARTED	AM	PM
0354	X	

TIME FINISHED	AM	PM
0442	X	

I, John C Gartley (TYPE OR PRINT NAME IN FULL), of 40 Timber ha. Windsor Ct. 06095 (TYPE OR PRINT FULL ADDRESS)

was born on 11 (MO.) 12 (DAY) 62 (YR.) in Honolulu (TOWN/CITY) Hawaii (STATE) USA (COUNTRY)

I attended 13 grades of school and I (✓) can ( ) can not read and write English. I have lived at my present address for 2 (YRS.) ___ (MOS.). I am giving the following statement of my own free will and accord without fear, threat or promise.

This statement was given at 114 (NO.) Woodland St (STREET) Hartford (TOWN/CITY) Ct (STATE)

On 14 April 1996 at 0133hrs my unit (H63) was dispatched by Hartford Police to the intersection of Albany Ave. and Irving St in Hartford for a motor vehicle accident. Upon our arrival at 0134hrs found 1 vehicle, a blue Bronco type truck, facing west on Albany Ave. and vehicle facing north on the east side walk of Irving St with driver side of the front quarter against a telephone pole. I also noted 20 or more bystanders around the Irving St car.

I sent my partner to the Irving St car while I attended to triage the scene. I found the driver of the truck complaining of side pain, the other occupant had no complaints and was on the radio to his office. Upon returning to the Irving St car I found a patient white male lying on his right side facing north and head pointing east. This patient showed multiple contusions to his face with heavy blood loss and had what appeared to be a gun shot wound above his left ear. Small amounts of brain matter was scattered about his hair and face. This patient had no pulse or respirations. I asked the bystanders "if anyone knew how he got to be in this position" and "if anyone else was in the vehicle" but no answers given. continued on page 2

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

Det Lisa St Aime 6120?
WITNESSED

WITNESSED

John C Gartley
SIGNATURE

Sworn and subscribed to before me this 14th day of April 1996, in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5 (12/84)

STATE'S ATTORNEY

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER 96-16894

(CONTINUATION)

VOLUNTARY STATEMENT

DATE 04-14-96

Noting the condition of this patient I advised the dispatcher that it may possibly be a 10-45 and to dispatch the Hartford Fire Department Tactical unit for possible extrication of the other vehicle. I also notified the first HPD officer I saw that there may be a gunshot wound.

I used trauma shears to cut the patients jacket and T-Shirt up the back to expose the patients back before mooving him. I saw multiple red marks along both flanks and one to the right medial shoulder blade - mid-sagittal direction in oval 5 inches long by 3 inches wide. With my partner holding cervical spine control we log rolled the patient into a supine position on a back board. a cervical collar was then applied. I now noted a large amount of blood and a large clot of blood where the Right side of the patient's head was resting on the side walk. the patient was placed on the stretcher and mooved into the ambulance.

Upon further examination of the patient showed multiple facial fractures, heavy blood in the mouth and oropharynx, multiple contusions to back, abdomen the patient still had no pulse but had some electrical activity on the monitor. I attempted to place an endotracheal tube but was unsuccessful. A first attempt at IV access on the left arm was unsuccessful. An IV was established on the Right arm. CPR was established with noted ease of compressions due to chest fractures. A police officer rode along with us to the hospital and helped tape down the Right arm IV. We left the scene at 0148 hrs.

The patient was delivered to the Trauma Team at St Francis Hospital at 0145 hrs. A verbal report was given to the Trauma doctors. No further contact was made with the patient until about 0345 hr when the discussion of the scene and patient was conducted with the HPD officers at St Francis and this statement was written. JRF

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

Det Lucas G Russ 61207
WITNESSED

WITNESSED

SIGNATURE

Sworn and subscribed to before me this 14th day of April, 1996 in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5 A (12/84)

Page 2 of 2 Pages

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STATE'S ATTORNEY

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER: 96-16894

VOLUNTARY STATEMENT

DATE: 4-14-96

TIME STARTED	AM	PM
5;50	XXX	

TIME FINISHED	AM	PM
7;05	XXX	

I, THOMAS DAVIS (TYPE OR PRINT NAME IN FULL), of 929 BURNSIDE AVENUE EAST HARTFORD C (TYPE OR PRINT FULL ADDRESS)

was born on 11 15 74 (MO. DAY YR.) in MANCHESTER (TOWN/CITY) CONN. (STATE) U.S.A. (COUNTRY)

I attended GED grades of school and I (XX) can ( ) can not read and write English. I have lived at my present address for 2 (YRS. MOS.). I am giving the following statement of my own free will and accord without fear, threat or promise.

This statement was given at 50 (NO.) JENNINGS (STREET) RD. HARTFORD (TOWN/CITY) CONN. (STATE)

ON 4-14-96 AT APPROXIMATELY 5;50 A.M. DETECTIVE KNIGHT FROM THE HARTFORD POLICE DEPARTMENT CAME TO MY HOUSE LOCATED AT 929 BURNSIDE AVENUE EAST HARTFORD CONN. ACCOMPANIED BY THREE EAST HARTFORD POLICE OFFICERS.

I WAS INVOLVED IN A SERIOUS ACCIDENT IN HARTFORD CONN. AT THE INTERSECTION OF ALBANY AVENUE AND IRVING ST. IT WAS AFTER 1;00 IN THE MORNING ON 4-14-96. DETECTIVE KNIGHT ASKED ME TO COME TO THE HARTFORD POLICE DEPARTMENT AND GIVE A INTERVIEW AS TO WHAT HAPPENED.

DETECTIVE KNIGHT DID READ ME MY CONSTITUTIONAL RIGHTS PRIOR TO THE INTERVIEW WHICH I VOLUNTARILY WAIVED WITHOUT FEAR OR PROMISE MADE TO ME. I AM AWARE THAT THE DRIVER OF THE OTHER VEHICLE INVOLVED IN THE ACCIDENT HAS DIED.

I AM EMPLOYED BY THE METRO LOST PREVENTION SERVICES LOCATED AT 98 CEDAR ST. IN HARTFORD CONN. I AM A SUPERVISOR AND CURRENTLY SUPERVISES TWENTY SECURITY OFFICERS ON MY SHIFT. ON THIS DATE 4-14-96 AT APPROXIMATELY 1;00 IN THE MORNING I CAME FROM NUMBER 12 VINE ST. THE HORACE BUSHNELL APARTMENTS TO CHECK ON OFFICER GLORIA BROWN AND OFFICER GREEN.

I WAS OPERATING A CHEVY BLAZER 4x4 LICENSE PLATE NUMBER IS CONN. 943-HUH.

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

Det K. Knight
WITNESSED

WITNESSED

Thomas Davis
SIGNATURE

Sworn and subscribed to before me this 14th day of April, 19 96, in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5 (12/84)

STATE'S ATTORNEY

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER 96-16894

(CONTINUATION) **VOLUNTARY STATEMENT**

DATE 4-14-96

AFTER CHECKING ON THE OFFICERS I PROCEEDED SOUTH ON VINE ST. TO ALBANY AVENUE, I TURNED EAST ONTO ALBANY AVENUE WAS TRAVELING APPROXIMATELY 35 TO 40 MILES AN HOUR. I REACHED IRVING ST. AND A DARK COLORED VEHICLE I THINK IT WAS BLACK CAME TRAVELING OUT OF IRVING STREET NORTH ACROSS ALBANY AVENUE AT A HIGH RATE OF SPEED I WOULD SAY IN EXCESS OF 60 MILE AN HOUR INTO MY PATH, I WAS UNABLE TO AVOID CONTACT WITH THIS VEHICLE AND CONSEQUENTLY WE COLLIDED RESULTING IN MY VEHILCE SPINNING AROUND AND THE DARK COLORED VEHICLE WAS HIT ON THE DRIVERS SIDE OF THE VEHICLE AND THE DARK COLORED VEHICLE CAME TO REST ON THE NORTESIDE CURB OF ALBANY AVENUE AFTER STRIKING A UTILITY POLE.

I WAS UNABLE TO GET OUT OF MY VEHICLE AND I SUSTAINED INJURIES TO MY LEFT KNEE AND LEFT HAND (THUMB), I OBSERVED THE PASSENGER SIDE CAR DOOR OF THE VEHICLE I STRUCK OPEN AND OBSERVE SOMEONE EXIT THE VEHILCE AND STAGGER WEST ON ALBANY AVENUE FOR APPROXIMATELY TWENTY FEET BEFORE FALLING TO THE GROUND. A CROWD OF PEOPLE HAD GATHERED AROUND.

I [illegible]OIED SECURITY OFFICERS LOCATED AT VINE AND ALBANY AVENUE AND INFORMED THEM THAT I WAS INVOLVED IN A ACCIDENT AT THE INTERSECTION OF ALBANY AVENUE AND IRVING ST. SECURITY OFFICER GLORIA BROWN CAME TO MY VEHILCE AND SECURITY OFFICER GREEN WENT TO THE OTHER VEHICLE TO OFFER SOME ASSISTANCE.

OUR DISPATCHER FOR THE SECURITY COMPANY PHONE THE POLICE AND THE FIRE DEPARTMENT AND NOTIFIED THEM OF THE ACCIDENT. THE FIRE DEPARTMENT ALONG WITH THE POLICE ARRIVED AND I WAS UNABLE TO GET OUT OF THE VEHICLE AND THE FIRE DEPARTMENT EXTRICATED ME OUT OF THE VEHICLE BY PRYING THE DRIVER SIDE DOOR OPEN.

PROFESSIONAL AMBULANCE THAT HAD ARRIVED TRANSPORTED ME TO ST. FRANCIS HOSPITAL WHERE I WAS TREATED AND RELEASED.

AT THE TIME OF THE ACCIDENT I WAS THE ONLY OCCUPANT IN MY VEHICLE IT WAS SUGGESTED THAT I MIGHT HAD SOMEONE ELSE IN MY VEHICLE WHICH WAS FALSE, THE SECURITY OFFICERS NEAR MY VEHICLE WHEN THE AMBULANCE ARRIVED WERE NOT PASSENGERS IN MY VEHICLE BUT ARRIVED AFTER THE ACCIDENT TO OFFER ASSISTANCE.

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

Det. K. Knight
WITNESSED

WITNESSED

Thomas Davis
SIGNATURE

Sworn and subscribed to before me this 14th day of April, 1996, in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5 A (12/84)

HARTFORD POLICE DEPARTMENT

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER: 96-16694

VOLUNTARY STATEMENT

DATE: 4-14-96

TIME STARTED: 1;45 AM PM XX

TIME FINISHED: 2;30 AM PM XX

I, JIMMY GREEN (TYPE OR PRINT NAME IN FULL) of 57 SUMNER ST. HARTFORD CONN. (TYPE OR PRINT FULL ADDRESS)

was born on 8 (MO.) 9 (DAY) 73 (YR.) in SEATTLE (TOWN/CITY) WASHINGTON (STATE) U.S.A. (COUNTRY)

I attended 14 grades of school and I (X) can ( ) can not read and write English. I have lived at my present address for 8 (YRS. - MOS.). I am giving the following statement of my own free will and accord without fear, threat or promise.

This statement was given at 50 (NO.) JENNINGS (STREET) RD. HARTFORD (TOWN/CITY) CONN. (STATE)

ON 4-14-96 AT APPROXIMATELY 1;45 I CAME TO THE HARTFORD POLICE DEPARTMENT TO SPEAK WITH THE POLICE REGARDING A SERIOUS ACCIDENT INVOLVING MY FIELD SUPERVISOR FOR METRO LOST PREVENTION SECURITY COMPANY WHICH I AM AN EMPLOYEE.

AT APPROXIMATELY 1;35 GLORIA BROWN AND MYSELF WERE ON ROUTINE PATROL ONVINE ST. WHEN I RECEIEVED A RADIO TRANSMISSION FROM MY FIELD SUPERVISOR THOMAS DAVIS, THOMAS STATED" HE NEEDED HELP AND THAT HE HAD JUST GOT INTO AN ACCIDENT WITH ANOTHER VEHICLE AT THE INTERSECTION OF ALBANY AVENUE AND [illegible]VING ST.

GLORIA AND MYSELF RAN TO THE SCENE WHERE THE ACCIDENT WAS AND GLORIA WENT AND ATTENDED TO THE THOMAS DAVIS WHO WAS OPERATING OUR SECURITY BLAZER. I OBSERVED THE BLAZER WITH FRONT END DAMAGE AND FACING WEST IN THE MIDDLE OF ALBANY AVENUE.

I ALSO OBSERVED A BLUISH GREEN FORD ESCORT VEHICLE WITH MAJOR DRIVER SIDE DAMAGE THAT CAME TO REST ON THE NORTH CURB OF ALBANY AVENUE AFTER STRIKING A TELEPHONE POLE. I WENT OVER TO THE VEHICLE TO RENDER SOME ASSISTANCE AFTER OBSERVING A WHITE MALE STAGGER FROM THE VEHICLE.

I OBSERVED A SECOND WHITE MALE LYING ON THE GROUND BLEEDING PROFUSELY

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

WITNESSED

WITNESSED

SIGNATURE

Sworn and subscribed to before me this 14th day of April, 1996, in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5 (12/84) Page 1 of 2 Pages

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STATE'S ATTORNEY

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER 96-16894

(CONTINUATION) VOLUNTARY STATEMENT

DATE 4-14-96

FROM THE HEAD AND FACE AREA. WHEN I FIRST ARRIVED THERE WERE APPROXIMATELY TWENTY PEOPLE AROUND THE ACCIDENT VICTIM LYING ON THE GROUND. IWENT TO SPEAK WITH THE WHITE MALE THAT HAD STAGGER OUT OF THE VEHICLE ON TEE PASSENGER SIDE. I SPOKE WITH THIS WHITE MALE WHO STATED THAT THE LAST THING HE REMEMBER WAS SOME PEOPLE SAYING GIVE US OUR MONEY, AFTER THAT THE WHITE MALE REMEMBER HIS FRIEND PULL OFF AND THAT ALL THE WHITE MALE COULD REMEMBER.

THE CROWD ENTICE ME TO GIVE MORE ATTENTION TO THE VICTIM ON THE GROUND AND I HAD SOME RUBBER GLOVES AND TRIED TO FEEL FOR A PULSE ON THE VITIM ON THE GROUND BUT COULD NOT FIND ONE.

THE POLICE AND FIRE DEPARTMENT ARRIVED AND GAVE IMMEDIATE MEDICAL TO THE VICTIM THAT WAS HURT THE MOST SERIOUS AND TRANSPORTED TO ST. FRANCIS HOSPITAL.

WE ATTEMPTED TO SEEK INFORMATION FROM THE CROWD BUT RECEIVED NO COOPERATION AND NO ONE CAME FORWARD. WE THEN WENT TO SEE ABOUT THE FEILD SUPERVISOR THOMAS DAVIS, WHO HAD TO BE EXTRACTED FROM THE BLAZER BY THE FIRE DEPARTMENT AND THEN TRANSPORTED TO THE HOSPTAL FOR MEDICAL TREATMENT OF HIS LEFT LEG AND ARM.

I DID NOT SEE ANYONE AROUND THE VICTIM WITH ANY WEAPONS OR SEE ANYONE BEATING THE VICTIM THAT WAS LYING ON THE GROUND.

JLG

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages

WITNESSED

WITNESSED

SIGNATURE

Sworn and subscribed to before me this 14th day of April, 19 96, in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5 A (12/84)

STATE'S ATTORNEY

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER: 96-16894

VOLUNTARY STATEMENT

DATE: 4-14-96

TIME STARTED: 8;15 AM XX PM

TIME FINISHED: 9;00 AM XX PM

I, GLORIA BROWN (TYPE OR PRINT NAME IN FULL), of 22 GRAY ST. HARTFORD CONN. (TYPE OR PRINT FULL ADDRESS)

was born on 1 (MO.) 27 (DAY) 71 (YR.) in SAN ANTONIO (TOWN/CITY) TEXAS (STATE) U.S.A. (COUNTRY)

I attended 12 grades of school and I (XX) can ( ) can not read and write English. I have lived at my present address for 1 YRS. ____ MOS. I am giving the following statement of my own free will and accord without fear, threat or promise.

This statement was given at 50 (NO.) JENNINGS (STREET) RD. HARTFORD (TOWN/CITY) CONN. (STATE)

ON 4-14-96 AT APPROXIMATELY 8;15 A.M. I CAME TO THE HARTFORD POLICE DEPARTMENT TO SPEAK WITH THE POLICE REGARDING A SERIOUS ACCIDENT THAT INVOLVED MY FIELD SUPERVISOR THOMAS DAVIS WHO WORKS FOR METRO LOST PREVENTION SERVICES WHERE I AM EMPLOYED AS SECURITY OFFICER.

AT APPROXIMATELY 1;30 A.M. I RECEIVED A RADIO DISPATCH ALONG WITH SECURITY OFFICER JAMES GREEN FROM OUR FIELD SUPERVISOR WHO STATED THAT HE WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT AND THAT A VEHICLE RAN THE STOP SIGN AT THE INTERSECTION OF ALBANY AVENUE AND IRVING STREET AND THAT HE NEEDED ASSISTANCE.

JAMES GREEN AND MYSELF RAN FROM 30 VINE ST. TO THE INTERSECTION OF ALBANY AVENUE AND IRVING ST. UPON ARRIVAL I OBSERVED THE COMPANY SECURITY BLAZER WITH BADLY FRONT END DAMAGE, I WENT AROUND TO THE DRIVER'S SIDE DOOR AND ASKED SUPERVISOR DAVIS IF HE WAS ALL RIGHT AND ATTEMPTED TO OPEN THE DOOR BUT WAS UNABLE TO DO SO BECAUSE THE DOOR WAS JAMMED SHUT.

SECURITY JAMES GREEN WENT TO ASSIST THE MOTORIST IN THE OTHER VEHICLE THAT WAS SEVERELY DAMAGE, AND ONE OF THE OCCUPANTS HAD EXITED THAT VEHICLE AND WAS LYING ON THE GROUND FACE UP BLEEDING PROFUSELY FROM THE HEAD AREA.

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, I will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

WITNESSED

WITNESSED

SIGNATURE

Sworn and subscribed to before me this 14th day of April, 1996, in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

CASE NUMBER 96-162854

(CONTINUATION) **VOLUNTARY STATEMENT**

DATE 4-14-96

THERE WAS A LARGE CROWD THAT HAD GATHERED BUT NO ONE SAID THEY SAW ANYTHING. I REMAINED WITH SUPERVISOR DAVIS AND HE ASKED ME TO REMOVE A BOX OF KEYS BELONGING TO THE OTHER SECURITY LOCATIONS AND TWO NOTEBOOKS AND A SECURITY RADIO FROM THE BLAZER AND I GAVE THEM TO MR. LEROY CAMPBELL WHO IS ONE OF THE OWNERS OF THE COMPANY, WHO HAD ARRIVED AT THE SCENE AFTER BEING NOTIFIED BY OUR DISPATCHER.

THE POLICE AND THE FIRE DEPARTMENT ARRIVED AT THE SCENE AND SECURED THE SCENE, THE FIRE DEPARTMENT PRIED THE DRIVER SIDE DOOR OF THE BLAZER OPEN SO THE AMBULANCE PEOPLE COULD ADMINISTER MEDICAL TREATMENT TO SUPERVISOR DAVIS.

THE AMBULANCE HAD ALREADY TAKEN THE OCCUPANTS OF THE OTHER VEHICLE AWAY IN THE AMBULANCE, I WAS UNAWARE THAT SOMEONE HAD DIED IN THE ACCIDENT UNTIL SUPERVISOR DAVIS CALLED ME FROM THE HARTFORD POLICE DEPARTMENT AT APPROXIMATELY 7;45 A.M. THIS DATE 4-14-96 AND INFORMED ME THAT ONE OF THE OCCUPANTS FROM THE OTHER VEHICLE HAD DIED.

I KNEW THE PERSON THAT HAD EXITED THE VEHICLE WAS SERIOUSLY INJURED BECAUSE OF THE BLOOD LOST THAT I OBSERVED AND SECURITY OFFICER GREEN HAD STATED THAT HE ATTEMPTED TO LOCATE A PULSE ON THAT PERSON AND COULD NOT FIND ONE PRIOR TO THE AMBULANCE ARRIVED.

I have read (or have had read to me) the above statement and it is true to the best of my knowledge. I fully understand that if I knowingly make a statement that is untrue and which is intended to mislead a law enforcement officer in the performance of his official function, it will be in violation of Section 53a-157 of the Connecticut General Statutes, False Statement.

This statement consists of 2 pages.

WITNESSED

WITNESSED

SIGNATURE

Sworn and subscribed to before me this 14th day of April 19 96 in accordance with the Connecticut General Statutes.

NOTARY PUBLIC

HPD FORM 5A (12/84)

STATE'S ATTORNEY

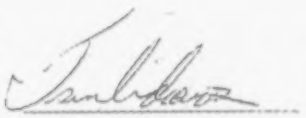
A Yo' cuzin

Whats done is done. If I wasn't fuck up in the Head
off that shit it wouldint have never happened. I got
set up for the dry coke by them snake ass homicides
it ain't nothing dough. If I wouldve charge it or
said I need the would've gave me 12 but it ain't
about that. I feel for You. I wouldve gave you the
names that put me in it in the first place but I
can't that's irrelevant. You put my name out
as Dontin fuck up cuzin it all good cuzin
You gotta keep screamin mines.

Grant PETITIONER'S EXHIBIT
CV03-3933
9 1-7-05

CERTIFICATION OF WORD LIMIT

The undersigned attorney hereby certifies that the word and page limits have not been exceeded in the Brief in Opposition to Petition for Certification in the matter of Brian K. Murphy v. Bernale Bryant. The undersigned hereby certifies that 8,024 words used.

BY: 

Peter Tsimbidaros